

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

DEMETRIO P. PANTOJA,

Plaintiff,

vs.

BAC HOME LOANS SERVICING, LP FKA
COUNTRY WIDE HOME LOANS
SERVICING L.P., organized and existing
under law of New York, RECONSTRUST
COMPANY, N.A., is organized and exists
under the laws of the State of Texas,

Defendants.

Case No: C 11-2946 SBA

**ORDER DIRECTING PLAINTIFF
TO FILE RESPONSE TO
DEFENDANTS' MOTION TO
DISMISS**

Plaintiff Demetrio P. Pantoja, acting pro se, filed the instant mortgage fraud action in this Court on June 15, 2011. Dkt. 1. On July 8, 2011, Defendants BAC Home Loans Servicing, LP and ReconTrust Company, N.A., filed a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). Dkt. 15.¹ Under Civil Local Rule 7-3(a), an opposition to a motion must be filed within fourteen days of the date the motion was filed, and the reply is due seven days thereafter. As such, Plaintiff's response to the motion should have been filed by no later than July 22, 2011. To date, Plaintiff has not filed any response to Defendants' motion.

This Court's Standing Orders warn that the failure to file a response to a motion may be deemed to be a consent to the granting of the unopposed motion. Dkt. 14 at 5. As such, it is well within the discretion of the Court to grant Defendants' motion as unopposed and

¹ The case was assigned to Magistrate Judge Elizabeth Laporte. The case was reassigned to this Court on August 5, 2011. Dkt. 13. On August 26, 2011, Defendants renoticed their motion and the matter was set for hearing on December 13, 2011. Dkt. 15, 18.

1 dismiss the action. See Fed. R. Civ. P. 41(b); Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir.
2 1995). Nevertheless, mindful of its obligation to first consider to less drastic alternatives,
3 the Court will afford Plaintiff one further opportunity to respond to the pending motion.
4 Accordingly,

5 IT IS HEREBY ORDERED THAT Plaintiff shall have until November 18, 2011 to
6 file and serve his response (i.e., either an opposition or a statement of non-opposition) to
7 Defendants' Rule 12(b)(6) motion to dismiss. Plaintiff's response shall comply in all
8 respects with the Federal Rules of Civil Procedure and the Court's Civil Local Rules
9 including, without limitation, Civil Local Rules 7-3 through 7-5. **PLAINTIFF IS**
10 **WARNED THAT THE FAILURE TO FILE A RESPONSE BY THIS DEADLINE**
11 **AND/OR TO COMPLY WITH THIS ORDER OR ANY OTHER APPLICABLE**
12 **PROCEDURAL RULES WILL RESULT IN THE GRANTING OF THE PENDING**
13 **MOTION AND THE DISMISSAL OF THIS ACTION.** In the event Plaintiff timely
14 files a response, Defendants may file a reply seven days after the deadline for Plaintiff's
15 response.

16 IT IS SO ORDERED.

17 Dated: November 8, 2011


SAUNDRA BROWN ARMSTRONG
United States District Judge

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 PANTOJA et al,

5 Plaintiff,

6 v.

7 BAC HOME SERVICING, LP et al,

8 Defendant.
9 _____/

Case Number: CV11-02946 SBA

10 **CERTIFICATE OF SERVICE**

11
12 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
13 Court, Northern District of California.

14 That on November 9, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said
15 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing
16 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle
17 located in the Clerk's office.

18 Demetrio P. Pantoja
19 1857 Letterkenny Drive
20 Lincoln, CA 95648

21 Dated: November 9, 2011

Richard W. Wieking, Clerk

22 By: LISA R CLARK, Deputy Clerk
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